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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 14th May, 1993:

BILL No. 66 OF 1993

A Bill further to amend the Delhi Municipal Corporation Act, 1957

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1993.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

66 of 1957.

Amendment of section 2.

2. In section 2 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act),—

(*a*) for clause (*1*), the following clause shall be substituted, namely:—

'(*1*) "Administrator" means the Lieutenant Governor of the National Capital Territory of Delhi;';

(*b*) clauses (*12*), (*14*) and (*14A*) shall be omitted;

(*c*) after clause (*15*), the following clauses shall be inserted, namely:—

'(*15A*) "Election Commission" means the Election Commission of the National Capital Territory of Delhi referred to in section 7;

(*15B*) "Election Commissioner" means the Election Commissioner of the National Capital Territory of Delhi appointed by the Administrator under section 7;';

(*d*) clause (*19*) shall be omitted;

(*e*) after clause (*21*), the following clause shall be inserted, namely:—

'(*21A*) "Government" means the Government of the National Capital Territory of Delhi;';

(*f*) in clause (*27*), the words "or an alderman thereof" shall be omitted;

(*g*) clause (*31*) shall be omitted;

(*h*) after clause (*63*), the following clause shall be inserted, namely:—

'(*63A*) "Wards Committee" means the Wards Committee referred to in section 50;';

(*i*) clause (*65*) shall be omitted;

(*j*) after clause (*67*), the following clause shall be inserted, namely:—

'(*68*) "Zone" means a Zone referred to in section 3A.'.

Amendment of section 3.

3. In section 3 of principal Act,—

(*i*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

'(*3*) (*a*) The Corporation shall be composed of the councillors;

(*b*) the following persons shall be represented in the Corporation, namely:—

(*i*) ten persons, who are not less than 25 years of age and who have special knowledge or experience in municipal administration, to be nominated by the Administrator:

Provided that the persons nominated under this sub-clause shall not have the right to vote in the meetings of the Corporation;

(*ii*) members of the House of the People representing constituencies which comprise wholly or partly the area of the Corporation and the members of the Council of States registered as electors within the area of the Corporation;

(*iii*) as nearly as possible one-fifth of the members of the Legislative Assembly of the National Capital Territory

of Delhi representing constituencies which comprise wholly or partly the area of the Corporation to be nominated by the Speaker of that Legislative Assembly, by rotation every year:

Provided that while nominating such members, by rotation, the Speaker shall ensure that as far as possible all the members are given an opportunity of being represented in the Corporation at least once during the duration of the Corporation;

(*iv*) the Chairpersons of the Committees, if any, constituted under sections 39, 40 and 45, if they are not councillors.".

(*ii*) in sub-section (*4*), the words "and alderman shall be chosen by the councillors from among persons who are qualified to be councillors but are not councillors themselves" shall be omitted;

(*iii*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) **Upon the completion of each census after the establishment of the Corporation the number of seats shall be on the basis of the population of Delhi as ascertained at that census and shall be determined by the Central Government by notification in the Official Gazette and the number of seats to be reserved for the members of the Scheduled Castes shall, as nearly as may be, bear the same ratio to the total number of seats as the population of Scheduled Castes bears to the total population of Delhi:**

Provided that the total number of seats shall in no case be more than one hundred and thirty-four or less than eighty:

Provided further that the determination of seats as aforesaid shall not affect the then composition of the Corporation until the expiry of the duration of the Corporation:

Provided also that for the first election to the Corporation to be held immediately after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, the provisional population figures of Delhi as published in relation to 1991 census shall be deemed to be the population of Delhi as ascertained in that census :

Provided also that the seats reserved for Scheduled Castes may be allotted by rotation to different wards in such manner as the Central Government may, by order published in the Official Gazette, direct."

(*iv*) for sub-section (*7*), the following sub-section shall be substituted, namely:—

"(*7*) Seats shall be reserved for women belonging to the Scheduled Castes, from among the seats reserved for the Scheduled Castes, the number of such seats being determined by the Central Government by order published in the Official Gazette which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes.".

(*v*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*8*) Seats shall be reserved for women, the number of such seats being determined by order published in the Official Gazette by the Central Government which shall not be less than the one-third of total number of seats other than those reserved for the Scheduled Castes:

Provided that such seats reserved for women shall be allotted by rotation to different wards in such manner as the Central Government may, by order published in the Official Gazette, direct in this behalf.".

Insertion of new section 3A.

4. After section 3 of the principal Act, the following section shall be inserted, namely:—

Division of Delhi into zones.

"3A. (*1*) Delhi shall be divided into the number of zones specified in column (1) of the Fourteenth Schedule and each zone shall be known by the name specified in column 2 of that Schedule and each zone shall extend to the areas comprised in the wards specified against that zone in column 3 of the said Schedule.

(2) The Central Government may, after consultation with the Government, from time to time, by notification in the Official Gazette, alter the names, increase or diminish the area or any zone specified in column 3 of the Fourteenth Schedule."

Substitution of new section for section 4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Duration of the Corporation.

"4. (*1*) The Corporation, unless sooner dissolved under section 490, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that where the Corporation is constituted after its dissolution, such Corporation shall continue only for the remainder of the period for which the dissolved Corporation would have continued under this section had it not been so dissolved.

(*2*) An election to constitute the Corporation shall be completed,—

(*i*) before the expiry of its duration specified in sub-section (*1*);

(*ii*) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Corporation for such period.".

Amendment of section 5.

6. In section 5 of the principal Act, in sub-section (*2*),—

(*i*) in clause (*b*), the word "and", occurring at the end, shall be omitted;

(*ii*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*d*) the wards in which seats shall be reserved for women; and

(*e*) the manner in which seats shall be rotated under sub-sections (*6*) and (*8*) of section 3.".

Omission of section 5A.

7. Section 5A of the principal Act shall be omitted.

Substitution of new section for section 7.

8. For section 7 of the principal Act, the following section shall be substituted, namely:—

Elections to the Corporation.

"7. (*1*) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Corporation shall be vested in the Election Commission of the National Capital Territory of Delhi consisting of an Election Commissioner to be appointed by the Administrator.

(*2*) Subject to the provisions of any law made by the Legislative Assembly of the National Capital Territory of Delhi, the conditions of service and tenure of office of the Election Commissioner shall be such as the Administrator may by rules determine:

Provided that the Election Commissioner shall not be removed from office except in a like manner and on the like grounds as a Judge of a High Court and the conditions of service of the Election Commissioner shall not be varied to his disadvantage after his appointment.

(*3*) The Administrator shall, when so requested by the Election Commission make available to that Commission such staff which the Administrator considers necessary for discharge of the functions conferred on the Election Commission by sub-section (*1*).".

Amendment of section 7B.

9. In section 7B of the principal Act,—

(*i*) in sub-section (*1*), for the words "Central Government may", the words "the Election Commission may, in consultation with the Government," shall be substituted;

(*ii*) in sub-section (*2*), for the words "Director of Municipal Elections may employ such persons as he thinks fit", the words "Election Commission may employ such persons as it thinks fit" shall be substituted.

Amendment of section 7C.

10. In section 7C of the principal Act, in sub-section (*1*), for the words "the Central Government", the words "the Election Commission" shall be substituted.

Amendment of section 7D.

11. In section 7D of the principal Act,—

(*i*) for the words "a parliamentary constituency", in both the places where they occur, the words "an assembly constituency" shall be substituted;

(*ii*) in the *Explanation*, for the words "parliamentary constituency", the words "an assembly constituency" shall be substituted.

Amendment of section 7E.

12. In section 7E of the principal Act,—

(*i*) for the words "Central Government", wherever they occur, the words "Election Commission" shall be substituted;

(*ii*) in sub-section (*1*), in the proviso, for the words "parliamentary constituency", in both the places where they occur, the words "the assembly constituency" shall be substituted.

Amendment of section 7F.

13. In section 7F of the principal Act, for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted

Amendment of section 7H.

14. In section 7H of the principal Act, for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted.

Amendment of section 7I.

15. In section 7I of the principal Act, in clause (*b*) for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted.

Amendment of section 8.

16. In section 8 of the principal Act,—

(*i*) for the words "unless his name", the words and figures "unless he has attained the age of twenty-one years and his name" shall be substituted;

(*ii*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in the case of a seat reserved for woman, no person other than a woman shall be qualified to be chosen as a councillor.".

Amendment of section 9.

17. In section 9 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) in the opening portion, the words "or an alderman" shall be omitted;

(*b*) for clauses (*d*) and (*e*), the following clauses shall be substituted, namely:—

"(*d*) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislative Assembly of the National Capital Territory of Delhi;

(*e*) if he is so disqualified by or under any law made by the Legislative Assembly of the National Capital Territory of Delhi;";

(*c*) in clause (*g*), after the word "Government", the words "or Central Government" shall be inserted;

(*d*) in clause (*k*), for the words "Central Government", the words "Election Commission" shall be substituted;

(*ii*) in sub-section (*2*),—

(*a*) sub-clause (*a*) shall be omitted;

(*b*) in clause (*b*),—

(*A*) in sub-clause (*ii*), the words "or an alderman" shall be omitted;

(*B*) for sub-clause (*iii*), the following sub-clause shall be substituted, namely:—

"(*iii*) any fee for attendance at meetings of any committee of the Corporation;";

(c) in clause (c), for sub-clause (*vi*), the following sub-clause shall be substituted, namely:—

"(*vi*) any agreement or contract with the Corporation or any municipal authority for any goods or services which the Corporation may generally supply.".

Amendment of section 11.

18. In section 11 of the principal Act,—

(i) sub-section (2) shall be omitted;

(*ii*) in sub-section (*3*),—

(*a*) for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted;

(*b*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where in any ward a seat has been reserved for woman, such notification or notifications shall specify that the person to fill that seat shall be a woman.".

Amendment of section 12.

19. In section 12 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted;

(*ii*) in the proviso, for the words "four months", the words "six months" shall be substituted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) If the vacancy be a vacancy in a seat reserved for women the notification issued under sub-section (*1*) shall specify that the person to fill that seat shall be a woman.".

Omission of section 13.

20. Section 13 of the principal Act shall be omitted.

Substitution of new section for section 14.

21. For section 14 of the principal Act, the following section shall be substituted, namely:—

Publication of result of election.

"14. The names of all persons elected as councillors shall, as far as may be, after each election, be published by the Election Commission simultaneously in the Official Gazette.".

Amendment of section 15.

22. In section 15 of the principal Act,—

(*a*) in sub-section (*1*), the words "or an alderman" shall be omitted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) An election petition calling in question any election may be presented under any of the grounds specified in section 17 by any candidate at such election, by any elector of the ward concerned or by any councillor.".

Amendment of section 17.

23. In section 17 of the principal Act, in sub-section (*1*), in clause (*a*), the words "or, as the case may be, as an alderman" shall be omitted.

Amendment of section 21.

24. In section 21 of the principal Act, in sub-section (*2*), the words "or an alderman" shall be omitted.

Amendment of section 30.

25. In section 30 of the principal Act, in sub-section (*5*), for the words "Director of Municipal Elections", the words "Election Commission" shall be substituted.

Amendment of section 31.

26. In section 31 of the principal Act, in sub-section (*1*),—

(*a*) the words "and alderman" shall be omitted;

(*b*) in clause (*ag*), for the words "a parliamentary constituency", the words "an assembly constituency" shall be substituted;

(c) in clause (*g*), after the words "Scheduled Castes", the words "and women" shall be inserted;

(*d*) clause (*i*) shall be omitted.

Substitution of new section for section 32.

27. For section 32 of the principal Act, the following section shall be substituted, namely:—

Oath or affirmation.

'32. (*1*) Every councillor and every person nominated under sub-clause (*i*) of clause (*b*) of sub-section (*3*) of section 3, before taking his seat, make and subscribe at a meeting of the Corporation an oath or affirmation according to the following form, namely:—

"I,A.B. Having been elected as a councillor of Municipal Corporation of Delhi/nominated under sub-clause (*i*) of clause (*b*) of sub-section (*3*) of section 3 as a representative in the Municipal Corporation of Delhi do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established and I will faithfully discharge the duty upon which I am about to enter.".

(*2*) If a person sits or votes as a councillor or sits as a representative before he has complied with the requirements of sub-section (*1*) he shall be liable in respect of each day on which he sits or votes, as the case may be, to a penalty of three hundred rupees to be recovered as arrears of tax under this Act.'.

Insertion of new sections 32A and 32B.

32. (*1*) Every councillor and every person nominated under sub- be inserted, namely:—

Declaration of assets.

'32A. (*1*) Every councillor shall, not later than thirty days after making and subscribing the oath or affirmation under sub-section (*1*)

of section 32 and before the last day of the same month in each succeeding year, file with the Mayor a declaration in such form as may be prescribed by rules by the Central Government, of all the assets owned by him and members of his family and such declaration shall form part of the records of the Corporation.

Explanation.—For the purposes of this sub-section, "family" means the spouse and dependant children of the councillor.

(*2*) A person shall be disqualified for being a councillor—

(*a*) if he fails to file a declaration referred to in sub-section (*1*); or

(*b*) if he files a declaration under that sub-section which is either false or which he knows or believes to be false.

Vacation of seats in case of multiple membership.

'32B. No councillor shall be a member both of the Corporation and Parliament or the Legislative Assembly and if a person is so chosen, then at the expiration of fourteen days from the date of the publication in the Gazette of India, or as the case may be, in the Official Gazette, whichever is later that he has been so chosen, that person's seat in Parliament or the Legislative Assembly shall become vacant unless he has previously resigned his seat in the Corporation.'.

Amendment of section 33.

29. In section 33 of the principal Act,—

(*a*) the words "or an alderman" wherever it occurs shall be omitted;

(*b*) in sub-section (*1*), in clause (*a*), for the words and figure "section 9 or" the words, figures and brackets "section 9 or sub-section (*2*) of section 32A or" shall be substituted;

(*c*) for sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3*) If any question arises as to whether a councillor has become subject to any of the disqualifications mentioned in section 9 or sub-section (*2*), of section 32A, the question shall be referred for the decision of the Administrator and his decision shall be final.".

(*d*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion.".

Insertion of new sections 33A, 33B, 33C and 33D.

30. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Powers of Election Commission.

"33A. (*1*) Where in connection with the tendering of any opinion to the Administrator under sub-section (*4*) of section 33, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits filed and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil

court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or a copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code. 45 of 1860.

Statements made by persons to the Election Commission.

33B. No statement made by a person in the course of giving evidence before the Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(a) is made in reply to a question which he is required by the Commission to answer; or

(b) is relevant to the subject-matter of the inquiry.

Procedure to be followed by the Election Commission.

33C. The Election Commission shall have the power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private).

Protection of action taken in good faith.

33D. No suit, prosecution or other legal proceedings shall lie against the Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of sections 33A to 33C or of any order made thereunder or in respect

of the tendering of any opinion by the Commission to the Administrator or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

Amendment of section 34.

31. In section 34 of the principal Act, for the words "the Councillors and the alderman" the words "the councillors and the persons referred to in clause (*b*) of sub-section (3) of section 3" shall be substituted.

Amendment of section 35.

32. In section 35 of the principal Act,—

(*i*) in sub-section (*1*),—

(*A*) After the words "its members to be" the words "the Chairperson to be known as" shall be added;

(*B*) the following proviso shall be inserted at the end, namely:—

"Provided that during the duration of the Corporation, the office of the Mayor shall be reserved in favour of a member who is a woman for the first year of the Corporation and in favour of a member belonging to a Scheduled Caste for the third year of the Corporation.".

(*ii*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) If the vacancy be a casual vacancy in the office of the Mayor and is reserved for woman or for Scheduled Castes, the vacancy shall be filled by electing one of the councillors from amongst women or a member of the Scheduled Castes as the case may be.".

Amendment of section 36.

33. In section 36 of the principal Act,—

(*i*) in sub-section (*1*), the words "or his term of office as a member of the Corporation terminates in any manner" shall be omitted;

(*ii*) in sub-section (*3*),—

(*a*) in clause (*a*), the letter and brackets (*a*) shall be omitted;

(*b*) clause (*b*) shall be omitted.

Amendment of section 39.

34. In section 39 of the principal Act,—

(*i*) in sub-section (*1*), for the words "the Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee", the words "and the Wards Committee" shall be substituted;

(*ii*) in sub-section (*7*), for the words "to be the Chairman and another member to be the Deputy Chairman" the words "who is a councillor to be the Chairman and another member to be the Deputy Chairman" shall be substituted.

Amendment of section 40.

35. In section 40 of the principal Act,—

(*i*) sub-sections (*3*), (*4*) and (*5*) shall be omitted;

(*ii*) in sub-section (*6*), after the words "one of its members", the words "who is a councillor" shall be inserted.

Amendment of section 42.

36. In section 42 of the principal Act,—

(*i*) in the opening portion, for the words "It shall be incumbent", the words "Subject to the provisions of this Act and any other law for the time being in force, it shall be incumbent" shall be substituted;

(*ii*) clauses (*b*), (d) and (*u*) shall be omitted;

(*iii*) in clause (*j*), the word "hospitals" shall be omitted;

(*iv*) after clause (*j*), the following clause shall be inserted, namely:—

"(*jj*) the maintenance including the expansion and upgradation of facilities of the hospitals existing on the date of the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993;";

(*v*) after clause (*w*), the following clause shall be inserted, namely:—

"(*wa*) the preparation of plans for economic development and social justice.".

Amendment of section 43.

37. In section 43 of the principal Act, in the opening portion, for the words "The Corporation may in its discretion", the words "Subject to any general or special order of the Government, from time to time, the Corporation may" shall be substituted.

Substitution of section 44.

38. For section 44 of the principal Act, the following section shall be substituted, namely:—

Enumeration of municipal authorities.

"44. For the efficient performance of its functions, there shall be the following municipal authorities under the Corporation, namely:—

(*a*) the Standing Committee;

(*b*) the Wards Committee; and

(*c*) the Commissioner.".

Amendment of section 45

39. In section 45 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Standing Committee shall consist of—

(*i*) six members elected by the councillors from among themselves at the first meeting of the Corporation;

(*ii*) one member each elected by the members of each Wards Committee from among themselves at the first meeting of the Wards Committee;

after each general election or as soon as possible at any other meeting subsequent thereto.";

(*b*) in subsection (*2*), for the words "from the date of such election", the words "from such date as may be determined by the Corporation by resolution" shall be substituted;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) One-half of the members referred to in clause (i) of sub-section (1) and one-half of the members referred to in clause (ii) of that sub-section shall retire on the expiration of one year from the date of the constitution of the Standing Committee after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, and for that purpose they shall be selected by lot from amongst their respective categories before the said expiration in such manner as the Chairman of the Standing Committee may determine.";

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The Corporation or the concerned Wards Committee, as the case may be, shall in a meeting held immediately before the occurrence of the vacancies caused by the retirement of the members under sub-section (3) or sub-section (4), elect the requisite member or members from amongst the councillors or from amongst members of the Wards Committee, as the case may be, to fill up those vacancies.";

(e) in sub-section (6), the words "or alderman" shall be omitted.

Amendment of section 46.

40. In section 46 of the principal Act, in sub-section (1),—

(i) for the words "Corporation shall", the words "Corporation or, as the case may be, Wards Committee shall" shall be substituted; and

(ii) for the word "alderman", the words, "person referred to in sub-clause (i) of clause (b) of sub-section (3) of section 3" shall be substituted.

....

Amendment of section 47

41. In sub-sections (1) and (3) of section 47, after the words "one of its members", the words "who is a councillor" shall be inserted.

Substitution of new heading and new sections 50 to 52

42. For the heading *"The Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee"* before section 50 and for sections 50 to 53 (both inclusive) of the principal Act, the following heading and sections shall be substituted, namely:—

'The Wards Committees

Constitution of the Wards Committee.

50. (1) For each Zone there shall be a Wards Committee which shall consist of,—

(a) all the councillors elected from the wards comprised in that Zone; and

(b) the person, if any, nominated by the Administrator under sub-clause (i) of clause (b) of sub-section (3) of section 3

if his name is registered as an elector within the territorial limits of the Zone concerned.

(2) The Wards Committee shall be deemed to have been constituted from the date on which the Corporation is constituted after each general election.

Application of sections 47 and 48.

51. The provisions of sections 47 and 48 shall apply in relation to a Wards Committee as they apply in relation to the Standing Committee.

Powers and functions of the Wards Committee.

52. (1) Subject to the provisions of this Act, every Wards Committee shall exercise the powers and perform the functions as specified in the Fifteenth Schedule on behalf of the Corporation in relation to that Zone.

(2) The Central Government may, after consultation with the Government, by notification in the Official Gazette, amend the Fifteenth Schedule.

(3) When any question arises as to whether any matter falls within the purview of a Wards Committee or the Corporation, it shall be referred to the Government, and the decision of that Government thereon shall be final.'.

Amendment of section 59

43. In section 59 of the principal Act,—

(a) in the opening portion, the words "other than those pertaining to the Delhi Electric Supply Undertaking" shall be omitted;

(b) for clause (d), the following clause shall be substituted, namely:—

"(d) subject to any regulation that may be made in this behalf, be the disciplinary authority in relation to all municipal officers and other municipal employees.".

Omission of sections 60 to 64.

44. The heading "The General Manager (Electricity)", before section 60 and sections 60 to 64 (both inclusive) of the principal Act shall be omitted.

Amendment of section 65.

45. In section 65 of the principal Act, in sub-section (1), for the words "the Delhi Electric Supply Committee or the Delhi Water Supply and Sewage Disposal Committee", the words "or the Wards Committee" shall be substituted.

Amendment of section 66.

46. In section 66 of the principal Act,—

(a) in sub-section (1),—

(i) the words and brackets "or the General Manager (Electricity)";

(ii) the words "or General Manager, as the case may be" shall be omitted;

(b) in sub-section (2),—

(i) the words and brackets "or the General Manager (Electricity)";

(ii) in the proviso, the words "or such General Manager" shall be omitted.

47. In section 67 of the principal Act,— Amendment of section 67.

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) A member of the Standing Committee or a Wards Committee, if he ceases to be a councillor or ceases to represent any of the categories mentioned in sub-clause (*ii*) of clause (*b*) of sub-section (*3*) of section 3 shall cease to be a member of that Committee and his seat shall thereupon become vacant.";

(*b*) in sub-section (*2*), the words "the Delhi Electric Supply Committee or the Delhi Water Supply and Sewage Disposal Committee" shall be omitted.

48. In section 68 of the principal Act, for the words "the Delhi Electric Supply Committee or the Delhi Water Supply and Sewage Disposal Committee", the words "or the Wards Committee" shall be substituted. Amendment of section 68.

49. In section 69 of the principal Act, for the words "the Delhi Electric Supply Committee, the Delhi Water Supply and Sewage Disposal Committee", the words "the Wards Committee" shall be substituted. Amendment of section 69.

50. In section 70 of the principal Act,— Amendment of section 70

(*a*) in sub-section (*1*), in clauses (*b*) and (*c*), the words "except in regard to the Delhi Electric Supply Undertaking" shall be omitted;

(*b*) sub-section (*3*) shall be omitted.

51. In section 71 of the principal Act, in clause (*b*), in sub-clause (*i*), the words "or, as the case may be, the Delhi Electric Supply Committee or the Delhi Water Supply and Sewage Disposal Committee" shall be omitted. Amendment of section 71.

52. In section 72 of the principal Act, in sub-section (2) for the words "and alderman", the words "and other persons referred to in clause (*b*) of sub-section (3) of section 3" shall be substituted. Amendment of section 72.

53. In section 73 of the principal Act, the words "of alderman" shall be omitted. Amendment of section 73.

54. In section 74 of the principal Act,— Amendment of section 74.

(*i*) for the words "and alderman" in both the places where they occur, the words, "and the persons referred to in clause (*b*) of sub-section (3) of section 3" shall be substituted.

(*ii*) in the proviso, for the words "or alderman", the words, figures and brackets "or the persons referred to in clause (*b*) of sub-section (*3*) of section 3" shall be substituted.

55. In section 75 of the principal Act, in sub-section (*1*), the words, figures and brackets "and the persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be inserted at the end. Amendment of section 75.

Amendment of section 76.

56. In section 76 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) In the absence of both the Mayor and Deputy Mayor from the meeting, the members and the persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3 shall elect one from among the councillors to preside.".

Amendment of section 77.

57. In section 77 of the principal Act, in clause (*a*), the words "or an alderman" shall be omitted.

Amendment of section 78.

58. In section 78 of the principal Act,—

(*i*) in sub-section (*1*), for the word "members", the words "members and persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

(*ii*) in sub-section (*3*), for the word "members", the words "members and persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

(*iii*) in sub-section (*4*), for the word "members", the words "members and persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

Amendment of section 79.

59. In section 79 of the principal Act,—

(*i*) for the words "or alderman", wherever they occur, the words, "or persons referred to in clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

(*ii*) in sub-section (*4*), for the word "members", the words "members and persons referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

Amendment of section 80.

60. In section 80 of the principal Act, for the word "alderman", the words, "person referred to in sub-clauses (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

Amendment of section 81.

61. In section 81 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Commissioner or any municipal officer authorised by him in this behalf may attend, speak in, or otherwise take part in the proceedings of, any meeting of the Corporation or any of its Committees, but none of the persons specified herein shall by virtue of this sub-section be entitled to vote in any such meeting.";

(*b*) in sub-section (*2*), for the word "alderman", the words "person referred to in sub-clause (*ii*), (*iii*) and (*iv*) of clause (*b*) of sub-section (*3*) of section 3" shall be substituted;

(c) sub-section (8) shall be omitted.

Amendment of section 83.

62. In section 83 of the principal Act,—

(a) in sub-section (1), for the words "Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee", the words "Wards Committee" shall be substituted;

(b) in sub-section (2), for the words "of their numbers" the words "from amongst the councillors" shall be substituted.

Amendment of section 85.

63. In section 85 of the principal Act,—

(i) for the words "members present" the words "members and other persons referred to in clause (b) of sub-section (3) of section 3 present" shall be substituted;

(ii) the words "of the councillors for the election of any alderman and of each meeting" shall be omitted.

Amendment of section 86.

64. In section 86 of the principal Act,—

(i) in sub-section (1), for the words "members of the Corporation", the words, brackets, letter and figures "persons referred to in clause (b) of sub-section (3) of section 3" shall be substituted;

(ii) in sub-section (2), for the words "members of the Corporation", the words, "persons referred to in clause (b) of sub-section 3" shall be substituted;

Amendment of section 88.

65. In section 88 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (a), the words "or alderman" shall be omitted;

(b) in clause (c), for the words "councillor having voted", the words, "councillor or any person referred to in sub-clauses (ii), (iii) and (iv) of clause (b) of sub-section(3) of section 3" shall be substituted;

(ii) in sub-section (2), the words "of the councillors for the election of any alderman or" shall be omitted.

Amendment of section 89.

66. In section 89 of the principal Act,—

(a) in sub-section (1), the words and brackets "the Chief Engineer (Water Supply)" shall be omitted;

(b) in sub-section (2), the word "Central" shall be omitted.

Amendment of section 90.

67. In section 90 of the principal Act,—

(a) in sub-sections (1), (4), (5) and (6) for the words "appropriate authority", wherever they occur, the word "Commissioner" shall be substituted;

(b) in sub-sections (1), (4) and (5), for the words "the Committee concerned", wherever they occur, the words "the Standing Committee" shall be substituted;

(*c*) in sub-sections (*3*) and (*6*), for the words "The Committee concerned", wherever they occur, the words "The Standing Committee" shall be substituted;

(*d*) in sub-section (*3*), for the words "appropriate authority or at the instance of such authority", the words "Commissioner or at his instance" shall be substituted;

(e) in sub-section (*4*), for the words "such authority", the words "the Commissioner" shall be substituted;

(*f*) sub-section (*7*) shall be omitted.

Amendment of section 92.

68. In section 92 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Subject to the provisions of section 89, the power of the appointing municipal officers and other municipal employees whether temporary or permanent shall vest in the Commissioner:

Provided that the power of appointing officers and other employees immediately subordinate to the Municipal Secretary or the Municipal Chief Auditor to category B posts or category C posts shall vest in the Standing Committee:

Provided further that the Standing Committee may delegate to the Municipal Secretary or the Municipal Chief Auditor the power of appointing officers and other employees immediately subordinate to the said Secretary or Auditor, to category C posts.

Insertion of new section 92A.

69. After section 92 of the principal Act, the following section shall be inserted, namely:—

Recruitment to category B and category C posts.

"92A. The direct recruitment to category B and category C posts may be made by the Government through such agencies as may be prescribed by it.".

Amendment of section 95.

70. In section 95 of the principal Act, in sub-section (*4*), the following proviso shall be inserted at the end, namely:—

"Provided that in the case of an officer or other employee appointed by the Commissioner an appeal shall lie to the Administrator.".

Amendment of section 96.

71. In section 96 of the principal Act, the words and brackets "to the post of the General Manager (Electricity) or" shall be omitted.

Amendment of section 99.

72. In section 99 of the principal Act,—

(*a*) in sub-section (*1*), clause (*h*) shall be omitted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Municipal Fund shall be held by the Corporation in trust for the purposes of this Act subject to the provisions herein contained and a General Account relating to all moneys received by or on behalf of the Corporation shall be maintained.".

Substitution of new section for section 100.

73. For section 100 of the principal Act, the following section shall be substituted, namely:—

Municipal Fund to be kept in the State Bank of India.

"**100.** All moneys payable to the credit of the Municipal Fund in the General Account shall be received by the Commissioner and shall be forthwith paid into the State Bank of India to the credit of the said Account which shall be entitled "The General Account of the Municipal Fund of Delhi.".

Amendment of section 101.

74. In section 101 of the principal Act, in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) the Commissioner or a Deputy Commissioner or an officer subordinate to the Commissioner authorised by the Standing Committee in this behalf.".

Amendment of section 104.

75. In section 104 of the principal Act, for the words and brackets, "or, as the case may be, the General Manager (Electricity) shall forthwith communicate the circumstances to the Standing Committee or the Delhi Water Supply and Sewage Disposal Committee or, as the case may be, the Delhi Electric Supply Committee", the words "shall forthwith communicate the circumstances to the Standing Committee" shall be substituted.

Amendment of section 106.

76. In section 106 of the principal Act,—

(*a*) in sub-section (*1*), for the words and brackets "the General Manager (Electricity) in the case of any work in connection with the Delhi Electric Supply Undertaking and the Commissioner in the case of any other work", the words "the Commissioner" shall be substituted;

(b) in sub-section (3), the words and brackets "or as the case may be, the General Manager (Electricity)" shall be omitted.

Substitution of new section for section 107.

77. For section 107 of the principal Act, the following sections shall be substituted, namely:—

Investment of surplus moneys.

"107. (*1*) Surplus money standing at the credit of General Account of the Municipal Fund which cannot immediately be applied for the purposes specified in section 105 shall be deposited in the State Bank of India or in such scheduled bank or banks as the Corporation may select or be invested in public securities.

(*2*) The loss, if any, arising from such deposit of investment shall be debited to the General Accounts of the Municipal Fund.".

Constitution of Finance Commission.

107A. (*1*) The Administrator shall, as soon as may be, within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 and thereafter at the expiration of every fifth year constitute a Finance Commission to review the

financial position of the Corporation and to make recommendations to the Administrator as to,—

(*a*) the principles which should govern,—

(*i*) the distribution between the National Capital Territory of Delhi and the Corporation of the net proceeds of the taxes, duties, tolls and fees leviable by the National Capital Territory of Delhi which may be divided between them;

(*ii*) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Corporation;

(*iii*) the grants-in-aid to the Corporation from the consolidated fund of the National Capital Territory of Delhi;

(*b*) the measures needed to improve the financial position of the Corporation;

(c) any other matter referred to the Finance Commission by the Administrator in the interest of sound finance of the Corporation.

(*2*) The Legislature of the National Capital Territory of Delhi, may by law provide for the composition of the Commission, the qualifications which shall be required for appointment of members thereof, and the manner in which they shall be selected.

(*3*) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the National Capital Territory of Delhi, may, by law, confer on them.

(*4*) The Administrator shall cause every recommendation made by the Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly of the National Capital Territory of Delhi.

Amendment of section 109.

78. In section 109 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Corporation shall, on or before the 31st day of March of every year, adopt for the ensuing year the budget estimate which shall be an estimate of the income and expenditure of the Corporation to be received and incurred on account of the municipal government of Delhi.".

Amendment of section 110.

79. In section 110 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) On the recommendation of the Standing Committee in respect of the budget estimate, the Corporation may from time to time, during the year,—

(*i*) increase the amount of budget grant under any head;

(*ii*) make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year; or

(*iii*) reduce the amount of the budget grant under any head:

Provided that due regard shall be had to all the requirements of this Act and in making any increase or any additional budget grant the estimated cash balance at the close of the year shall not be reduced below the sum of one lakh rupees or such higher sum as the Corporation may determine in respect of the budget estimate.";

(*b*) sub-section (*5*) shall be omitted.

Amendment of section 112.

80. In section 112 of the principal Act, the words "or, as the case may be, the Delhi Electric Supply Committee or the Delhi Water Supply and Sewage Disposal Committee" shall be omitted.

Amendment of section 114.

81. In section 114 of the principal Act, in sub-section (*1*), clauses (*a*), (*b*) and (*c*) shall be omitted.

Amendment of section 115.

82. In section 115 of the principal Act,—

(*a*) sub-sections (*1*), (*2*) and (*3*) shall be omitted;

(*b*) in sub-section (*4*), in clause (*b*), the words "and not used or intended to be used exclusively for the purposes of the Delhi Electric Supply Undertaking or the Delhi Water Supply and Sewage Disposal Undertaking" shall be omitted.

Amendment of section 116.

83. In section 116 of the principal Act, in sub-section (*1*), the following *Explanation* shall be inserted at the end, namely:—

'*Explanation.*—The expressions "water tax" and "scavenging tax" shall mean such taxes of that nature as may be levied by an appropriate authority.'.

Omission of sections 117 and 118.

84. Sections 117 and 118 of the principal Act shall be omitted.

Amendment of section 123.

85. In section 123 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation.*—The term "property taxes" in this section shall be deemed to include the costs on recovery of property taxes and the penalty, if any, payable, as specified in the bye-laws.'.

Amendment of section 150.

86. In section 150 of the principal Act, in sub-section (*2*), the word "Central" shall be omitted.

Amendment of section 164.

87. In section 164 of the principal Act,—

(*a*) in sub-sections (*1*) and (*2*), the words "the scavenging tax, the fire tax and", wherever they occur shall be omitted;

(*b*) sub-section (*3*) shall be omitted.

Substitution of new section for section 184.

88. For section 184 of the principal Act, the following section shall be substituted, namely:—

Proceeds of entertainment Tax.

"184. The proceeds of the entertainment and betting taxes collected in Delhi under the provisions of the Uttar Pradesh Entertainment and Betting Tax Act, 1937, as extended to Delhi (which shall form part of the Consolidated Fund of the National Capital Territory of Delhi) reduced by the cost of collection as determined by the Government shall, if the Legislative Assembly of the National Capital Territory of Delhi by appropriation made by law in this behalf so provides, be paid to the Corporation for the performance of its functions under this Act.". U.P. Act 8 of 1937.

Amendment of section 185.

89. In section 185 of the principal Act, in sub-section (*1*), for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) to pay off any debt due to the Central Government or the Government.".

Amendment of section 195.

90. In section 195 of the principal Act,—

(*a*) in sub-section (*1*), for the word "Government", in both the places where it occurs, the words "Central Government or the Government" shall be substituted;

(*b*) in sub-section (*2*), in the proviso, for the word "Government", the words "Central Government" shall be substituted.

Amendment of section 202.

91. In section 202 of the principal Act,—

(*i*) for clauses (*c*) and (*d*), the following clauses shall be substituted, namely:—

"(*c*) no contract which will involve an expenditure exceeding ten lakh rupees or such higher amount as the Central Government may from time to time, fix, shall be made by the Commissioner unless the same is previously approved by the Standing Committee; and

(*d*) every contract made by the Commissioner involving an expenditure exceeding one lakh rupees but not exceeding ten lakh rupees or such higher amount as may be fixed under clause (*c*) shall be reported by him, within one month after the same has been made to the Standing Committee.".

(*ii*) clause (*e*) shall be omitted.

Substitution of new section for section 204.

92. For section 204 of the principal Act, the following section shall be substituted, namely:—

Accounts to be kept.

"204. There shall be kept in such manner and in such form as may be prescribed by regulations the General Account of all receipts and expenditures of the Corporation.".

Amendment of section 206.

93. In section 206 of the principal Act, in sub-section (5), the word "Central" shall be omitted.

Amendment of section 207.

94. In section 207 of the principal Act, in sub-section (*1*),—

(*a*) for the words "of any of the Accounts", the words "of the General Account" shall be substituted;

(*b*) the word "Central", wherever it occurs, shall be omitted.

Amendment of section 208.

95. In section 208 of the principal Act,—

(*a*) in sub-section (*3*), for the words ", the Standing Committee, the Delhi Electric Supply Committee, or the Delhi Water Supply and Sewage Disposal Committee,", the words "or the Standing Committee" shall be substituted;

(*b*) in sub-section (*4*), the words "or, as the case may be, the Delhi Electric Supply Committee, or the Delhi Water Supply and Sewage Disposal Committee" shall be omitted.

Omission of Chapters XII and XIII.

96. Chapters XII and XIII of the principal Act shall be omitted.

Amendment of section 298.

97. In section 298 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), the Central Government may, by notification, direct that all or any of the functions of the Corporation or the Commissioner, in respect of public streets under this Act shall be performed by such authority as may be specified therein.".

Insertion of new section 330A.

98. In Chapter XVI of the principal Act, before section 331, the following section shall be inserted, namely:—

General superintendence, etc., of the Central Government.

"330A. Notwithstanding anything contained in any other provision of this Act, the Commissioner shall exercise his powers and discharge his functions under this Chapter, under the general superintendence, direction and control of the Central Government.".

Insertion of new section 349A.

99. In Chapter XVI of the principal Act, after section 349, the following section shall be inserted, namely:—

Power of the Central Government to make bye-laws.

"349A. (*1*) The Central Government may, by notification in the Official Gazette, make bye-laws for carrying out the provisions of this Chapter:

Provided that all bye-laws made by the Corporation under paragraph F of sub-section (*1*) of section 481 of this Act as it stood immediately before the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993 and in force immediately before such

commencement, shall be deemed to have been made under the provisions of this section and shall continue to have the same force and effect after such commencement until it is amended, varied, rescinded or superseded under the provisions of this section.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely:—

(*a*) the regulation or restriction of the use of sites for buildings for different areas;

(*b*) the regulation or restriction of buildings in different areas;

(*c*) the form of notice of erection of any building or execution of any work and the fee in respect of the same;

(*d*) the plans and documents to be submitted together with such notice and the information and further information to be furnished;

(*e*) the level and width of foundation, level of lowest floor and stability of structure;

(*f*) the construction of buildings and the materials to be used in the construction of buildings;

(*g*) the height of buildings whether absolute or relative to the width of streets or to different areas;

(*h*) the number and height of storeys composing a building and the height of rooms and the dimensions of room intended for human habitation;

(*i*) the provision of open spaces, external and internal, and adequate means of light and ventilation;

(*j*) the provision of means of egress in case of fire, fire-escapes and water lifting devices;

(*k*) the provision of secondary means of access for the removal of house refuse;

(*l*) the materials and methods of construction of external and party walls, roofs and floors;

(*m*) the position, materials and methods of construction of hearths, smoke-escapes, chimneys, stair-cases, latrines, drains and cesspools;

(*n*) the provision of lifts;

(*o*) the paving of yards;

(*p*) the restriction on the use of inflammable materials in buildings;

(*q*) the restriction on construction of foundation on certain sites;

(*r*) the measures to be taken to protect buildings from damp arising from sub-soil;

(*s*) the wells, tanks and cisterns and pumps for the supply of water for human consumption in connection with buildings;

(*t*) in the case of wells, the dimensions of the well, the manner of enclosing it and if the well is intended for drinking purposes, the means which shall be used to prevent pollution of the water;

(*u*) the supervision of buildings;

(*v*) the setting back of garages and shops from the regular line of a street;

(*w*) the construction of portable structures and permission for such construction.

(*3*) The draft of the bye-laws referred to in sub-section (*1*) shall be forwarded to the Commissioner, who shall cause the same to be published in the Official Gazette for inviting objections and suggestions from the public within thirty days from the date of such publication.

(4) The Commissioner shall forward the draft bye-laws to the Central Government along with his recommendations and the objections and suggestions received from the public, within three months of their publication in the Official Gazette.

(5) The Central Government may issue such directions to the Commissioner as it thinks fit, for ensuring proper implementation of the bye-laws made under this section.".

Amendment of section 354.

100. In section 354 of the principal Act, the words, letter, brackets and figures "in respect of which the Commissioner has not given public notice under clause (*b*) of sub-section (*2*) of section 115 or" shall be omitted.

Amendment of section 355.

101. In section 355 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) It shall be lawful for the Commissioner to take or cause to be taken measures for the daily collection, removal and disposal of all filth and polluted and obnoxious matters from latrines, urinals and cesspools not connected by a drain with a municipal drain from all premises situate in any portion of Delhi.".

Amendment of section 431.

102. In section 431 of the principal Act,—

(*a*) in the opening portion,—

(*i*) the words and brackets "the General Manager (Electricity)" shall be omitted;

(*ii*) for the words "any of the aforesaid municipal authorities", the word "him" shall be substituted;

(*b*) in clause (*b*), the words and brackets "the General Manager (Electricity)" shall be omitted.

Amendment of section 432.

103. In section 432 of the principal Act, in sub-section (*1*), for the portion beginning with the words "The Commissioner" and ending with the words "aforesaid municipal authorities", the words "The Commissioner or any person authorised by him in this behalf" shall be substituted.

Amendment of section 433.

104. In section 433 of the principal Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words "the Commissioner" and ending with the words "aforesaid municipal authorities", the words "the Commissioner or any person authorised by him in this behalf" shall be substituted;

(*b*) in sub-section (*2*), the words and brackets ", the General Manager (Electricity)" shall be omitted.

Amendment of section 438.

105. In section 438 of the principal Act,—

(*a*) for the portion beginning with the words "any of the following appropriate municipal authorities" and ending with the words "aforesaid municipal authorities", the words "the Commissioner or of any municipal officer authorised by him in this behalf" shall be substituted;

(*b*) for the words "appropriate municipal authority", the word "Commissioner" shall be substituted.

Amendment of section 440.

106. In section 440 of the principal Act, for the words and brackets "or the General Manager (Electricity) or of any municipal officer, a written document signed by any such municipal authority", the words "or of any municipal officer, a written document signed by the Commissioner" shall be substituted.

Amendment of section 442.

107. In section 442 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Every licence, written permission, notice, bill, summons or other document which is required by this Act or any rule, regulation or bye-law made thereunder to bear the signature of the Commissioner or of any municipal officer, shall be deemed to be properly signed if it bears a fascimile of the signature of the Commissioner or officer, as the case may be, stamped thereupon.".

Amendment of section 443.

108. In section 443 of the principal Act, for the words and brackets "any of the following appropriate municipal authorities that is to say, the Commissioner, or the General Manager (Electricity)", the words "the Commissioner" shall be substituted.

General power to pay compensation.

109. For section 450 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section 450.

"450. In any case not otherwise provided for in this Act or in any bye-law made thereunder, the Commissioner, with the previous approval of the Standing Committee, may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any bye-law in the Commissioner or in any municipal officer or other municipal employee.".

Amendment of section 458.

110. In section 458 of the principal Act, in sub-sections (*1*) and (*2*), the word "Central" shall be omitted.

Amendment of section 460.

111. In section 460 of the principal Act, in clause (*b*), the word "Central" shall be omitted.

Amendment of section 462.

112. In section 462 of the principal Act,—

(*a*) for the portion beginning with the words "Any councillor or alderman" and ending with the words "other committee of the Corporation", the words, brackets, and figures "Any councillor or any person referred to in clause (*b*) of sub-section (3) of section 3 of any committee of the Corporation" shall be substituted;

(*b*) the words and brackets "the General Manager (Electricity)" shall be omitted;

(*c*) the words "or an alderman" wherever they occur, shall be omitted.

Amendment of section 467.

113. In section 467 of the principal Act, in clause (*c*), for the words and brackets "any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity) or a person authorised by any of them", the words "the Commissioner, or a person authorised by him" shall be substituted.

Amendment of section 468.

114. In section 468 of the principal Act, in sub-section (*1*), for the words and brackets "Any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity), the General Manager (Transport) or any person authorised by any of them" the words "The Commissioner or any person authorised by him" shall be substituted.

Amendment of section 469.

115. In section 469 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) the word "Central" shall be omitted;

(*ii*) for the words "magistrates of the first class", the words "Metropolitan Magistrates" shall be substituted;

(*b*) in sub-sections (*3*) and (*4*), the word "Central" shall be omitted;

(*c*) in sub-section (*6*),—

(*i*) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.
2 of 1974.

(*ii*) for the word and figures "section 12", the word and figures "section 16" shall be substituted.

Amendment of section 473.

116. In section 473 of the principal Act,—

(*a*) in sub-section (*1*), for the words and brackets "the General Manager (Electricity) or any municipal officer or other municipal employee authorised by any of the aforesaid municipal authorities", the words "or any municipal officer or other municipal employee authorised by him" shall be substituted;

(*b*) in sub-section (*2*), for the words "any of the appropriate municipal authorities", the words "the Commissioner" shall be substituted;

(*c*) in sub-section (*5*), the words "or any other appropriate municipal authority" shall be omitted.

Amendment of section 475.

117. In section 475 of the principal Act, the words "or any other appropriate municipal authority" shall be omitted.

Amendment of section 476.

118. In section 476 of the principal Act,—

(*a*) in sub-section (*1*), in clause (*i*), after the words "Standing Committee", the words "or the Wards Committee" shall be inserted;

(*b*) sub-section (*2*) shall be omitted.

Amendment of section 479.

119. In section 479 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Every rule made under this Act, every notification issued under sub-section (*2*) of section 3A and sub-section (*2*) of section 52 and bye-laws made by the Central Government under section 349A shall be laid as soon as may be after it is made or issued before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, bye-law or notification or both Houses agree that the rule, bye-law or notification should not be made or issued, the rule, bye-law or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, bye-law or notification.".

Amendment of section 481.

120. In section 481 of the principal Act, in sub-section (*1*),—

(*a*) the paragraph "B. Bye-laws relating to water supply, drainage and sewage disposal" and the entries occurring thereunder shall be omitted;

(*b*) the paragraph "C. Bye-laws relating to electric supply" and the entry occurring thereunder shall be omitted:

(*c*) the paragraph "F. Bye-laws relating to buildings" and entries occurring thereunder shall be omitted;

(*d*) in paragraph "L. Bye-laws relating to miscellaneous matters" entry 1 shall be omitted.

Amendment of section 483.

121. In section 483 of the principal Act, the word "Central", wherever it occurs, shall be omitted.

122. In sections 485 and 486 of the principal Act, after the words "Central Government" the words "or the Government" shall be inserted. Amendment of sections 485 and 486.

123. In section 487 of the principal Act,— Amendment of section 487.

(a) in sub-section (1), for the words "whether on receipt of", the words "whether on receipt of a report or on receipt of" shall be substituted;

(b) sub-sections (2) and (3) shall be omitted.

124. For section 490 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 490.

"490. (1) If, in the opinion of the Central Government, the Corporation persistently makes default in the performance of the duties imposed on it by or under this Act or exceeds or abuses its powers, the Central Government may by an order published, together with a statement of reasons therefor, in the Official Gazette, dissolve the Corporation: Dissolution of the Corporation.

Provided that the Corporation shall be given a reasonable opportunity of being heard before its dissolution.

(2) When the Corporation is dissolved by an order under sub-section (1),—

(a) all councillors shall, on the date of the dissolution, vacate their office as such councillors and the persons referred to in clause (b) of sub-section (3) of section 3 shall cease to be represented in the Corporation;

(b) during the period of dissolution of the Corporation, all powers and duties conferred and imposed upon the Corporation by or under this Act or any other law, shall be exercised and performed by such officer or authority as the Central Government may appoint in that behalf;

(c) all property vested in the Corporation shall, until it is re-constituted, vest in the Central Government.

(3) An election to constitute the Corporation shall be completed before the expiration of a period of six months from the date of its dissolution.

(4) An order of dissolution made under this section together with a statement of the reasons therefor shall be laid before each House of Parliament and the Legislative Assembly of the National Capital Territory of Delhi as soon as may be, after it has been made.".

125. In Chapter XXV of the principal Act, after the Chapter heading "MISCELLANEOUS" and before section 491, the following section shall be inserted, namely:— Insertion of new section 490A.

Delegation of power by the Central Government.

"490A. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, subject to such conditions, if any, as may be specified in the notification be exercisable by the Government or any of its officers or by the Commissioner or any other authority.".

Amendment of section 499.

126. In section 499 of the principal Act, in sub-section (*1*),—

(*a*) for the words and brackets "Every councillor and alderman, the Commissioner, the General Manager (Electricity)," the words, brackets, letter and figures "Every councillor and every person referred to in clause (*b*) of sub-section (*3*) of section 3, the Commissioner," shall be substituted;

(*b*) the word "Central" in both the places where it occurs shall be omitted.

Amendment of section 500.

127. In section 500 of the principal Act, for the words and brackets "Every councillor and alderman, the Commissioner, the General Manager (Electricity)," the words, brackets, letter and figures "Every councillor and every person referred to in clause (*b*) of sub-section (*3*) of section 3, the Commissioner," shall be substituted.

Amendment of section 501.

128. In section 501 of the principal Act, in sub-sections (*1*) and (*2*), the word "Central" shall be omitted.

Amendment of section 504.

129. In section 504 of the principal Act, sub-section (*1*) shall be omitted.

Amendment of section 507.

130. In section 507 of the principal Act, the word "Central", wherever it occurs, shall be omitted.

Insertion of new section 508A.

131. In Chapter XXV of the principal Act, after section 508, the following section shall be inserted, namely:—

Corporation to undertake work on agency basis.

"508A. Notwithstanding anything contained in any other provision of this Act, the Corporation may on such terms and conditions as may be determined by agreement between the Corporation and any authority, body or person, carry out any work which is not connected with its functions on agency basis.".

Omission of section 509.

132. Section 509 of the principal Act shall be omitted.

Insertion of new sections 511A and 511B.

133. After section 511 of the principal Act, the following sections shall be inserted, namely:—

Temporary provision with respect to electricity, water, sewage, etc.

"511A. Notwithstanding the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, all the provisions existing in the principal Act before such commencement relating to—

(*a*) water supply, drainage and sewage disposal;

(*b*) electric supply; and

(*c*) prevention and extinguishing of fire,

and matters connected therewith or incidental thereto shall be deemed to continue in operation till such date as the Central Government may, by notification in the Official Gazette, specify and different dates may be specified by the Central Government for any of the aforementioned different matters.

Special provision as to transferred functions.

511B. (*1*) In this section, "transferred functions" means such functions of the Corporation which immediately before the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993 were the functions of the Corporation but as from such commencement become the functions of any other authority or functionary hereinafter called the "new authority".

(*2*) On and from such commencement,—

(*a*) all lands and buildings (together with all interests of whatsoever nature and kind therein) vested in the Corporation immediately before such commencement and used for the purposes of "transferred functions" shall pass to and vest in the new authority concerned;

(b) all stores, articles and other movable properties belonging to the Corporation immediately before such commencement and utilised for or in connection with the "transferred functions" shall pass to and vest in the new authority concerned;

(c) all appointment, notifications, orders, schemes, rules, forms, notices or bye-laws made or issued or any licence or permissions granted by the Corporation immediately before such commencement in connection with the "transferred functions" shall continue in force and be deemed to have been made, issued or granted by the new authority concerned unless and until they are superseded by any appointment, notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted by the new authority concerned;

(*d*) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the Corporation immediately before such commencement for or in connection with the "transferred functions" shall be deemed to have been incurred, entered into, engaged to be done by, with or for, the new authority concerned;

(*e*) all assessments, valuations, measurements or divisions made by the Corporation immediately before such commencement in or in connection with the "transferred functions" shall continue in force and be deemed to have been made by the new authority concerned unless and until they are superseded by any assessment, valuation, measurement or division made by that authority;

(*f*) all rates, taxes, fees rents and other sums of money due to the Corporation in relation to the "transferred functions" immediately before such commencement shall be deemed to be due to the new authority concerned;

(*g*) all rates, fees, rents and other charges leviable in, or in relation to, the "transferred functions" shall, unless and until they are varied by the new authority concerned continue to be levied at the same rate at which they were being levied by the Corporation immediately before such commencement;

(*h*) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Corporation immediately before such commencement for any matter in relation to the "transferred functions" may be continued or instituted by or against the new authority concerned;

(*i*) every officer and other employee serving under the Corporation immediately before such commencement in connection with the "transferred functions" shall be transferred to and become an officer or other employee of the new authority concerned with such designation as such authority may determine and hold office by the same tenure and at the same remuneration and on the same terms and conditions of service as he would have held the same is the new authority concerned had not been established and shall continue to do so unless and until such tenure, remuneration and terms and conditions are duly altered by that authority :

Provided that the tenure, remuneration and terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage without the previous sanction of the Central Government :

Provided further that any service rendered by any such officer or other employee before such commencement shall be deemed to be service rendered under the new authority concerned:

Provided also that the new authority concerned may employ any such officer or other employee in the discharge of such functions as it may think proper and every such officer or other employee shall discharge those functions accordingly.

(*3*) As soon as may be after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993, the Central Government shall decide,—

(*a*) which stores, articles and other movable properties referred to in clause (*b*) of sub-section (*2*) have been utilised by the Corporation for or in connection with the "transferred functions";

(*b*) which debts, obligations, liabilities, contracts, matters and things referred to in clause (*d*) of the said sub-section have been incurred, entered into or engaged to be done by, with or for the Corporation for or in connection with the "transferred functions";

(*c*) which officers and other employees referred to in clause (*i*) of that sub-section served under the Corporation in connection with the "transferred functions".

(*4*) In case of any dispute in relation to any of the matters referred to in the various clauses of sub-section (*2*) other than clauses (*b*), (*d*) and (*i*), the dispute may be referred to the Central Government by the Corporation or the new authority concerned and the decision of that Government shall be final.".

Insertion of new section 514A.

134. After section 514 of the principal Act, the following section shall be inserted, namely:—

Translatory provision.

"514A. Notwithstanding anything contained in this Act, the Central Government may, if necessary, appoint a person to be called the Special Officer, to exercise the powers and discharge the functions of the Corporation until the day on which the first meeting of the Corporation is held after the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993.".

Amendment of Twelfth Schedule.

135. In the Twelfth Schedule to the principal Act, all the entries with respect to sections 214 to 273 (both inclusive) shall be omitted.

Insertion of Fourteenth and Fifteenth Schedules.

136. After the Thirteenth Schedule to the principal Act, the following Schedules shall be inserted, namley :—

"THE FOURTEENTH SCHEDULE

(*See* section 3A)

THE NUMBER, NAMES AND AREAS OF VARIOUS ZONES

Sl.No.	Name	Area of the Zone*/ Number and name of the municipal ward
(1)	(2)	(3)
1.	City	1 Minto Road
		2 Darya Ganj
		66 Shardhanand Bazar
		67 Dariba
		68 Maliwara
		69 Ballimaran
		70 Farash Khana
		71 Ajmeri Gate
		72 Kucha Pati Ram
		73 Lal Darwaza
		74 Matia Mahal
		75 Sui Walan
2.	Central	3 Nizamuddin
		4 Jang Pura
		5 Sewa Nagar
		6 Kotla Mubarakpur
		7 Lajpat Nagar
		8 Amar Colony
		9 Okhla
		11 Kalkaji

Sl.No.	Name	Area of the Zone*; Number and name of the municipal ward
(1)	(2)	(3)
3.	South	10 Kailash
		12 Malviya Nagar
		13 Hauz Khas
		14 Munirka
		15 Mohammad Pur
		16 R.K. Puram
		44 Mehrauli
		45 Madangir
		46 Tughlakabad
4.	Karol Bagh	17 Rajender Nagar
		18 Narayana
		92 Motia Khan
		93 Tibbia College
		94 Rahgarpura
		95 Dev Nagar
		96 East Patel Nagar
		97 West Patel Nagar
		98 Sat Nagar
		99 Anand Parvat
		100 Baljit Nagar
5.	Sadar Pahar Ganj	76 Paharganj
		77 Dariba Pan
		78 Ram Nagar
		79 Qadam Sharif
		80 Basti Julahan
		81 Kasab Pura
		82 Deputy Ganj
		83 Teliwara
		84 Arya Pura
		86 Pratap Nagar
		90 Sarai Rohilla
		91 Manakpura
6.	West Zone	19 Nangal Raya
		20 Ashok Nagar
		21 Tilak Nagar
		22 Tagore Garden
		23 Subhash Nagar
		24 Rajouri Garden
		25 Ramesh Nagar
		26 Moti Nagar
		39 Madi Pur
		40 Vishnu Garden.

Sl.No.	Name	Area of the Zone, Number and name of the municipal ward
(1)	(2)	(3)
7.	Civil Lines	32 Wazirabad
		59 Mori Gate
		60 Civil Lines
		61 Timar Pur
		62 Kingsway Camp
		63 Model Town
		64 Vijay Nagar
		65 Jawahar Nagar
		85 Sohan Ganj
		87 Shakti Nagar
8.	Shahdara South	47 Geeta Colony
		48 Lakshmi Nagar
		49 Gandhi Nagar
		50 Dharampura
		51 Krishna Nagar
		52 Patparganj
		53 Vishwas Nagar
		54 Shahdara
9.	Shahdara—North	55 Rohtas Nagar
		56 Naveen Shahdara
		57 Ghonda
		58 Usmanpur
10.	Rural Narela	33 Alipur
		34 Narela
		35 Bawana
		36 Kanjhawala
11.	Rural Najafgarh	37 Nangloi
		38 Najafgarh
		41 Isapur
		42 Palam
		43 Mahipalpur
12.	Rohini	27 Shakur Basti
		28 Badli
		29 Rampura
		30 Onkar Nagar
		31 Wazir Pur
		88 Shastri Nagar
		89 Karam Pura

NOTE: *The area is indicated in terms of the extent of the municipal wards as they existed on the date of the commencement of the Delhi Municipal Corporation (Amendment) Act, 1993.

THE FIFTEENTH SCHEDULE

(*See* section 52)

POWERS AND FUNCTIONS OF THE WARDS COMMITTEE

(*1*) Sanction estimates and plans for municipal works to be carried out within the Zone costing up to rupees one crore, other than works taken up and executed for Delhi as a whole or those covering more than one Zone, provided that specific provision exists therefor in the budget sanctioned by the Corporation.

(*2*) Call for any report, return, plan, estimate, statement, account or statistics from the Commissioner, connected with matter pertaining to the municipal administration in the Zone.

(*3*) Scrutinize monthly statements of receipts and disbursements and of the progress reports in the collection of revenue in the Zone.

(*4*) Consider and make recommendations on the proposals regarding estimates of revenue and expenditure pertaining to the Zone under different heads of account of the budget before being forwarded to the Commissioner.

(*5*) Report or advice upon any matter which the Corporation may refer to it under the Act.

(*6*) Deal with such other matters as may be delegated by the Corporation to the Wards Committee.

(*7*) In general, exercise all such municipal powers and functions of the Corporation as are to be performed exclusively in the Zone concerned other than those relating to Delhi as a whole or involving two or more Zones.".

STATEMENT OF OBJECTS AND REASONS

The need for reorganisation of administrative and municipal set up in Delhi was being felt and the matter has been under the consideration of the Government for some time For making an in-depth study, the Government appointed a Committee to go into the various issues connected with the administrative and municipal set up of Delhi and to recommend measures, *inter alia*, for streamlining of the municipal set up. The Committee on re-organisation of the Delhi set up (popularly known as Balakrishnan Committee) went into the matter in great detail and recommended a decentralised municipal administration.

2. To give effect to the recommendations of the Committee, and decision of the Government thereto, the Delhi Municipal Corporation (Amendment) Bill, 1992 was introduced in Lok Sabha on 24th November, 1992. Meanwhile, during the Winter Session of the Parliament, the Constitution (Seventy-second Amendment) Bill, 1992 relating to Panchayats and the Constitution (Seventy-third Amendment) Bill, 1992, relating to the municipalities were passed. These Bills have now become Acts. As the provisions of the aforesaid two Constitutional Amendments have a bearing on the composition, duration reservation of seats and responsibilities of Panchayats and Municipalities, it has become necessary to make further changes in the Delhi Municipal Corporation (Amendment) Bill, 1992 so as to harmonise the provisions of the Delhi Municipal Corporation Act, 1957 wth the provisions of the aforesaid two Constitutional Amendments.

3. Government has, therefore, proposed to withdraw the Delhi Municipal Corporation (Amendment) Bill, 1992 and to introduce a new Amendment Bill in harmony with aforesaid Constitution Amendment Acts with such modications as are necessary in view of the special requirements of the Union Territory of Delhi.

4. The important changes sought to be brought about by the Bill are:—

(i) Provision has been made for the constitution of Wards Committee comprising of one or more wards in place of Zonal Committees;

(ii) The number of Councillors is proposed to be increased to 134 from the present strength of 100 Councillors;

(iii) Provision has been made for ten persons of not less than 25 years of age and possessing special knowledge or experience in municipal administration, to be nominated by the Administrator to the Corporation;

(iv) Members of Lok Sabha representing constituencies in the municipal areas and Members of Rajya Sabha registered as electors in the municipal areas will be represented in the Corporation.

(v) As nearly as possible, one-fifth of the Members of the Legislative Assembly of the National Capital Terirtory of Delhi, to be nominated by

the Speaker of the Assembly, by rotation, every year will be represented in the Corporation. It is also proposed that the Speaker of the Assembly shall nominate members in such manner that all the members will have the opportunity of being represented in the Corporation at least once the opportunity of being represented in the Corporation at least once during its duration.

(vi) Provision is sought to be made for reservation of seats for women;

(vii) The wards reserved for the Scheduled Castes and for women are proposed to be rotated.

(viii) Delimitation of municipal wards for the first election under the new set up will be on the basis of provisiffional figures of population, as published in relation to 1991 census;

(ix) An Election Commission for the National Capital Territory of Delhi is proposed to be set up to supervise the preparation revision of electoral rolls and to conduct of elections;

(x) Every Councillor is to file a declaration of assets owned by him and members of his family, every year. In the event of any dispute arising on the disqualification for membership, it shall be decided by the Administrator in consultation with the Election Commission of Delhi;

(xi) An elected Councillor is not to be a member both of the Corporation and Parliament or Legislative Assembly, at the same time;

(xii) The Corporation is to continue up t ofive years unless sooner dissolved in case of the dissolution, elections to constitute the Corporation are to be completed before the expiry of the duration or before the expiry of six months from the date of its dissolution, except when the remainder period is less than six months;

(xiii) The functions relating to generation, transmission and distribution of electricity, supply and distribution of water and disposal of sewage, fire services and setting up of new hospitals and their maintenance are sought to be transferred to other agencies;

(xiv) A Finance Commission is proposed to be set up to review the financial position of the Corporation and to make recommendations to the Administrator on the principles which should govern the distribution between the National Capital Territory of Delhi and the Corporation, of the proceeds of the taxes, duties, and other receipts;

(xv) Other supplemental and transitional arrangements. "

5. The Bill seeks to give eect to the above proposals.

S. B. CHAVAN.

NEW DELHI;
The 13th May, 1993.

Notes on Clauses

Many of the clauses of the Bill provide for amendments to the Delhi Municipal Corporation Act, 1957 in order to bring its provisions, as far as possible, in consonance ith the provisions contained in the Constitution (Seventy-third Amendment) Act, 1992 and the Constitution (Seventy-fourth Amendment) Act, 1992 as well as consequent on the transfer of certain functions now being performed by the Municipal Corporation of Delhi to other agencies.

Clause 3 provides for the increase in the number of Councillors from one hundred to one hundred and thirty-four. It also provides for representation of ten persons having special knowledge or experience in municipal administration (without voting right) to be nominated by the Administrator and representation of MPs from Delhi and Members of Legislative Assembly of Delhi. It further provides that 'population' for purposes of holding first elections under the new set-up should be construed as provisional figures of population in relation to 1991 census. It also provides for reservation of seats for Scheduled Castes and reservation of not less than one-third of seats of Councillor in favour of women (both for genral and reserved seats separately). Reserved seats for Scheduled Castes and women are to be allotted by rotation different wards.

Clause 4 provides for decentralisation of Municipal Administration in Delhi by creating various Zones as per the Fourteenth Schedule, which could be amended by the Central Government after consulting the Government of Delhi.

Clause 5 lays down that the duration of the Corporation, unless sooner dissolved, shall be five years and that elections to it are to be completed before the expiry of its duration or before the expiration of six months from the date of its dissolution.

Clause 6 provides for reservation of seats in wards for women, including the manner of rotating the seats reserved for Scheduled Castes and women.

Clause 8 makes provision for vesting in the Election Commission of the National Capital Territory of Delhi the superintendence, direction and control of the preparation of all electoral rolls and conduct of all elections to the Corporation.

Clause 11 entites the persons registered in the electoral rolls of an Assembly constituency to be so registered in the electoral roll of a Ward.

Clause 16 makes a provision that the minimu mage of a Councillor shall be 21 years.

Clause 17 makes a provision that a person shall not be qualified to be a Councillor if he is disqualified for elections to the Legislative Assembly or under any law made by the Legislative Assemby.

Clause 28 provide that every Councillor should submit declaration of all assets owned by him and his family members, failing which he would be disqualified for being a Councillor. It further provides that no Councillor shall

be a member both of the Corporation and Parliament or Legislative Assembly at the same time.

Clause 29 makes a provision that if a question arises whether a Councillor has become subject to any disqualification, the question is to be decided by the Administrator on the opinion of the Election Commission of the National Capital Territory of Delhi.

Clause 30 clothes the Election Commission of the National Capital Territory with the powers of a civil court in respect of certain matters and the Commission shall be deemed to be a civil court for certain purposes.

Clause 32 makes a provision that the Office of the Mayor shall be reserved in in favour of a women for the first year and in favour of a member belonging to a Scheduled Caste for the third year of the Corporation.

Clause 36 provides for the addition of the function relating to the preparation of plans for economic development and social justice and for the deletion of the functions relating to supply of water, generation, supply and distribution of electricity, maintenance of fire brigades and establishment and maintenance of hospitals to be set-up in future.

Clause 37 lays down that the discretionary functions of the Corporation shall be subject to any general or special order of the Government of Delhi.

Clause 39 makes a provision for the representation of the Wards Committees in the Standing Committee.

Clause 42 makes provision for the constitution, composition and functions of Wards Committees.

Clause 68 empowers the Commissioner to make, subject to certain exceptions, appointments of all Municipal Officers/employees.

Clause 69 makes a provision that direct recruitment to category 'B' and Category 'C' posts may be made by the Government of Delhi through such agencies as may be prescribed by it.

Clause 70 provides that in the case of an employee appointed by the Commissioner, the appeal shall be to the Administrator.

Clause 77 provides for the constitution of a Finance Commission every fifth year to review the financial position of the Corporation and to make recommendations to the Administrator as to the measures needed to improve its financial position, etc.

Clause 81 provides for exclusion of water tax, scavenging tax and fire tax from property taxes.

Clause 91 makes provision empowering the Commissioner to enter into contract involving an expenditure up to ten lakh rupees.

Clause 97 enables the Central Government to direct that the maintenance, etc., of certain arterial roads shall be done by an authority other than the Municipal Corporation. The intention is that this function should be trasferred to the Government of Delhi.

Clauses 98 and 99 provide that the Municipal Commissioner shall exercise his powers and discharge his functions relating to 'Building Regulations' under the general superintendence, direction and control

of the Central Government and that the Central Government shall make bye-laws for carrying out the pro visions relating to 'Building Regulations'.

Clause 124 lays down the procedure for the dissolution of the Corporation before the expiration of its duration of five years. An election to constitute the Corporation is to be completed within a period of six months from its dissolution.

Clause 125 makes provision for delegation by the Central Government of its powers to the Government of Delhi or any of its officers or to the Municipal Commissioner or any other authority.

Clause 131 provides for carrying out works by the Corporation which are not connected with its functions on agency basis.

Clause 133 makes an enabling provision for the continued performance of all functions by the Corporation until the establishment of new agencies, such as Delhi Water Supply and Sewage Disposal Board, Delhi Electricity Board, etc. It also makes special transitory provisions in regard to the 'transfered functions'.

Clause 134 makes transitory provision for appointment of a Special Officer till the first meeting of the Corporation.

Clauses 66, 86, 93, 94, 110, 111, 115, 121, 122, 126, 128 and 130 provide that certain powers which vest in the Central Government may now vest in the Government of Delhi.

Other clauses provide for certain incidental and consequential amendments.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to amend after consultation with the Government of Delhi by notification in the Official Gazette, the Fourteenth Schedule (proposed to be inserted by the said clause) relating to the number, names and areas of the various zones into which Delhi shall be divided.

Clause 28 of the Bill empowers the Central Government to prescribe by rules the form in which every Councillor should submit a declaration of all the assets owned by him and the members of his family.

Clause 42 of the Bill empowers the Central Government to amend after consultation with the Government of Delhi the Fifteenth Schedule (proposed to be inserted by the said clause) relating to the powers and functions of the Wards Committees.

Clauses 4 and 42 of the Bill concern on the Central Government the power to amend the Fourteenth and Fifteenth Schedule to the Delhi Municipal Corporation Act, 1957. Since the two Schedules deal with matters of detail and since it may be necessary to make frequent changes in the Schedules it may be difficult to approach Parliament every time to amend the Schedules.

Clause 92 of the Bill seeks to substitute section 204 of the Act to provide for framing of regulations by the Corporation in respect of his general account relating to receipts and expenditures.

Clause 99 of the Bill empowers the Central Government to make bye-laws for carrying out the provisions relating to building regulations.

Every rule, notification, bye-law or regulation falling under clauses 4, 42, 92 and 99 of the Bill has to be laid as soon as may be, after it is issued or made before each House of Parliament for a period of thirty days and shall be subject to any modification agreed to by both the Houses of Parliament.

The matters referred to above are of procedural nature. The delegation of legislative power is, therefore, of a normal character.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides *inter alia* for the increase in the number of councillors of the Delhi Municipal Corporation from one hundred to one hundred and thirty-four. Moreover, the first elections to the Corporation after the commencement of this Act are proposed to be held on the basis of provisional figures of population of Delhi as published in relation to 1991 Census. All this will call for fresh delimitation of municipal wards for the purpose of holding elections. For this purpose, a non-recurring expenditure of about one lakh rupees is likely to be incurred including expenditure on the setting up of the election commission of Delhi in the initial stages. (Once the Consolidated Fund of Delhi gets created the expenditure of Election Commission of National Capital Territory of Delhi will be met from the same.) This expenditure will be met from the Consolidated Fund of India.

2. The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

BILL No. 65 OF 1993

A Bill to provide for the constitution of a National Human Rights Commission and a State Human Rights Commission in any State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Human Rights Commissions Act, 1993.

(*2*) It extends to the whole of India:

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;

(*b*) "Chairperson" means the Chairperson of the Commission;

(c) "Commission" means the National Human Rights Commission constituted under section 3;

(d) "Committee" means the Committee referred to in sub-section (1) of section 4;

(e) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Convenants and the enforceable by courts in India;

(f) "International Convenants" means the International Convenant on Civil and Political Rights and the International Convenant of Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;

(g) "Member" means a Member of the Commission and includes the Chairperson, but does not include *ex officio* Member referred to in clause (c) of sub-section (2) of section 3;

(h) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992; 19 of 1992.

(i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;

(j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990; 20 of 1990.

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code; 45 of 1860.

(n) "State Commission" means a State Human Rights Commission constituted under section 21;

(o) "terrorist act" shall have the meaning as assigned to it in section 3 of the Terrorist and Disruptive Activities (Prevention) Act, 1987; 28 of 1987.

(2) Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State be construed as a reference to a corresponding law, if any, in force in that State.

CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

Constitution of a National Human Rights Commission.

3. (1) The Central Government shall constitute a body to be known as a National Human Rights Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of—

(a) a Chairperson who is, or has been, a Judge of the Supreme Court;

(*b*) four members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights:

Provided that out of the four members at least three members shall be persons having experience in—

(*i*) general administration at the level of Secretary to the Government of India or an equivalent post for at least one year;

(*ii*) police administration at the level of Secretary to the Government of India or an equivalent post for at least one year; and

(*iii*) legal affairs at the level of Secretary to the Government of India in the Ministry of Law or who is, or has been, a Judge of a High Court or a distinguished jurist,

(*c*) Chairperson, or any member nominated by the Chairperson, of the National Commission for Scheduled Castes and Scheduled Tribes, the National Commission for Women and the National Commission for Minorities, who shall be Members, *ex officio*.

(3) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(4) The Headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

Appointment of Chairperson and other Members

4. (1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

(*a*) the Prime Minister—Chairperson;

(*b*) Speaker of the House of the People—Member;

(*c*) Minister in-charge of the Ministry of Home Affairs in the Government of India—Member;

(*d*) Leader of the Opposition in the House of the People—Member;

(*e*) Leader of the Opposition in the Council of States—Member;

(*f*) Deputy Chairman of the Council of States—Member.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in, or any defect in the constitution of, the Committee.

Removal and suspension of a Member of the Commission.

5. (1) Subject to the provisions of sub-section (3), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or

such other Member, as the case may be, ought on any such ground to be removed.

(2) The President may suspend from office the Chairperson or any other Member in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in sub-section (1), the President shall by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is, unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude; or

(f) is, in the case of a Member without obtaining leave of absence from the Chairperson and in the case of the Chairperson without obtaining leave of absence from the President, absent from three consecutive meetings of the Commission.

Term of office.

6. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of a State.

Member to act as Chairperson or to discharge functions in certain circumstances.

7. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Terms and conditions of Chairperson and Members.

8. The salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

Vacancies, etc., not to invalidate the proceedings of the Commission.

9. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Procedure to be regulated by the Commission.

10. (*1*) The Commission shall meet at such time and place as the Chairperson may think fit.

(*2*) The Commission shall regulate its own procedure.

(*3*) All orders and decisions of the Commission shall be authenticated by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

Officers and other employees of the Commission.

11. (*1*) The Central Government shall make available to the Commission—

(*a*) an officer of the rank of the Secretary to the Government of India who shall be the Secretary-General of the Commission; and

(*b*) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(*2*) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(*3*) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (*2*) shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the Commission.

12. The Commission shall perform all or any of the following functions, namely:—

(*a*) inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of,—

(*i*) violation of human rights or abetment thereof; or

(*ii*) negligence in the prevention of such violation,

by a public servant;

(*b*) inquire, *suo-motu* or on a petition presented to it, into any complaint of violation or deprivation of rights of any individual or group of individuals relating to life, liberty and dignity resulting from the terrorist acts committed by any section of the people, and make appropriate recommendations thereon;

(*c*) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

(*d*) visit, with the prior approval of the State Government, any jail to study the living conditions of the inmates and make recommendations thereon;

(*e*) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;

(*f*) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

(*g*) undertake and promote research in the field of human rights;

(*h*) spread human rights' literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(*i*) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

(*j*) such other functions as it may consider necessary for the protection of human rights.

Powers relating to inquiries.

13. (*1*) The Commission shall, while inquiring into complaints under this Act have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely:—

5 of 1908.

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath;

(*b*) discovery and production of any document;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

45 of 1860.

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 in so far as it may be applicable. 2 of 1974.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. 45 of 1980. 2 of 1974.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Investigation.

14. (1) The Commission may for the purpose of conducting any investigation pertaining to the inquiry utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) The State Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the State Government with the concurrence of that Government.

(3) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission,—

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(4) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(5) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(6) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (5) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

Statement made by persons to the Commission.

15. No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement:—

(*a*) is made in reply to the question which he is required by the Commission to answer; or

(*b*) is relevant to the subject matter of the inquiry.

Persons likely to be prejudicially affected to be heard.

16. If, at any stage of the inquiry, the Commission,—

(*a*) considers it necessary to inquire into the conduct of any person; or

(*b*) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

Inquiry into complaints.

17. The Commission while inquiring into the complaints of violations of human rights may—

(*i*) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:

Provided that—

(*a*) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(*b*) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.

(*ii*) without prejudice to anything contained in clause (*i*), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

Steps after inquiry.

18. The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely:—

(*1*) where the inquiry discloses, *prima facie*, the Commission of violation of human rights, it may recommend to the concerned Government

or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit, against the concerned person or persons;

(2) approach the Supreme Court or the High Court concerned for such directions as that Court may deem necessary;

(3) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(4) subject to the provisions of sub-section (5) provide copy of the findings of the inquiry report to the petitioner or his representative;

(5) (a) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority;

(b) the concerned Government or authority shall, within a period of three months, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(6) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

Procedure with respect to armed forces.

19. Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:—

(1) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(2) after the receipt of the report, it may either not proceed with complaint or as the case may be, make its recommendations to that Government.

Annual report.

20. The procedure for submission of annual report relating to the functions and other activities of the Commission shall be as follows:—

(1) the Commission shall submit an annual report and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report;

(2) the Central Government and the Government of each State, as the case may be, shall cause the annual and special reports of the Commission to be laid on the Table of each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

CHAPTER V

STATE HUMAN RIGHTS COMMISSION

State Human Rights Commission.

21. (*1*) A State Government may, by notification, constitute a State Human Rights Commission and thereupon the provisions of this Act shall, as far as may be, apply to that State Commission.

(2) Two or more States may agree that there shall be a joint State Commission for that group of States.

(*3*) Every State Commission shall inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the National Commission, the State Commission shall not inquire into the said matter.

(*4*) The term of office and other terms and conditions of service of the Chairperson and other members of the State Commission shall be such as may be prescribed by the State Government concerned.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

Grants by the Central Government.

22. (*1*) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(*2*) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (*1*).

Accounts and audit.

23. (*1*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(*3*) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(*4*) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf,

together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be possible after it is received, before each House of Parliament.

CHAPTER VII

MISCELLANEOUS

Matters not subject to jurisdiction of the Commission.

24. (*1*) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(*2*) The Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

Protection of action taken in good faith.

25. No suit or other legal proceeding shall lie against the Central Government, Commission or any Member thereof or any person acting under the direction either of the Central Government or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government or the Commission of any report, paper or proceedings.

Members to be public servants.

26. Every Member of the Commission and every Officer appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860

Power to make rules.

27. (*1*) The Central Government may, by notification, make rules to carry out of the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

(*a*) the salaries and allowances and other terms and conditions of service of the Members under section 8;

(*b*) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other employees under section 11; and

(*c*) any other matter which has to be, or may be, prescribed.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter

have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficulties.

28. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

India is a party to the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on the 16th December, 1966. The human rights embodied in the aforesaid Covenants stand substantially protected by the Constitution.

2. However, there has been growing concern in the country and abroad about issues relating to human rights. Having regard to this, changing social realities and the emerging trends in the nature of crime and violence, Government has been reviewing the existing laws, procedures and system of administration of justice, with a view to bringing about greater accountability and transparency in them, and devising efficient and effective methods of dealing with the situation.

3. Wideranging discussions were held at various for a such as the Chief Ministers' Conference on Human Rights, seminars organised in various parts of the country and meetings with leaders of various political parties. Taking into account the views expressed in these discussions, the present Bill is brought before Parliament.

4. The salient features of the Bill are:—

(1) A Human Rights Commission will be set up at the national level consisting of five members to be appointed by the President. The Chairperson of the Commission will be a person who is or has been a Judge of the Supreme Court.

(2) Chairpersons of the National Commissions for the Scheduled Castes and Scheduled Tribes, Women and Minorities, or their nominees, will be *ex officio* members of the Commission.

(3) The Commission will be a fact-finding body with powers to conduct inquiry into complaints of violation of human rights.

(4) The Commission will be assisted by investigating agencies of the Central and State Governments.

(5) The Commission may make recommendations for the effective implementation of the existing laws and treaties on human rights.

(6) The Commission may undertake research in the field of human rights and take measures to promote awareness of human rights among all sections of society.

(7) Provision is also made for the constitution of State Human Rights Commissions.

5. The Bill seeks to achieve the above objects.

S. B. CHAVAN.

NEW DELHI;
The 13th May, 1993.

Notes on clauses

Clause 2 provides for the definitions of the expressions used in the Bill.

Clause 3 provides for the constitution of the National Human Rights Commission with Head quarter at Delhi and establishment of its offices at other places in India.

Clause 4 provides for the appointment of Chairperson and other Members on recommendation of a Committee.

Clause 5 empowers the President to remove or suspend a Member of the Commission on ground of proved misbehaviour or incapacity on a report of the Supreme Court.

Clause 6,7,8 contain provisions regarding term of office of Members, carrying on of the work of the Commission in the absence of Chairperson and terms and conditions of their service.

Clause 9 provides that proceedings of the Commission would not be invalid merely because of existence of a vacancy in the Commission.

Clause 10 provides for the Commission's power to regulate its own procedure.

Clause 11 provides for the officers and other employees of the Commission.

Clause 12 provides for the functions of the Commission in consonance with the scheme of the Bill as the Commission is expected to function as a watch dog for the effective implementation of human rights as guaranteed by the Constitution and embodied in the International Covenants.

Clauses 13 and 14 seek to confer necessary powers relating to enquiries and investigation on the Commission.

Clause 15 provides for immunity from legal proceedings for evidence given by persons before the Commission except for giving false evidence.

Clause 16 provides for opportunity of being heard to persons likely to be prejudicially affected by inquiry conducted by the Commission.

Clauses 17 and 18 provide for the procedure to be followed by the Commission while inquiring into complaints of violations of human rights and empower the Commission to call for information and take steps upon completion of the inquiry.

Clause 19 seeks to provide a special procedure regarding violations of human rights by members of armed forces.

Clause 20 provides for the procedure for submission of annual reports for protection of human rights and the measures taken by the Central Government or the State Government.

Clause 21 provides for establishment of a State Human Rights Commission, if the State Government so wishes.

Clauses 22 and 23 provide for making of grants by the Central Government to the Commission and maintenance of accounts by the Commission and auditing of such accounts by the Comptroller and Auditor General of India.

Clause 24 provides for the jurisdiction of the Commission *vis-a-vis* State Commissions or any other Commission.

Clause 25 provide for protection of action taken in good faith.

Clause 26 seeks to declare the Chairperson, Members and employees of the Commission to be public servants.

Clause 27 empowers the Central Government to make rules for carrying out the provisions of the Act.

Clause 28 makes a provision for removal of difficulties.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a National Human Rights Commission. Clauses 8 and 11 of the Bill provide for the salaries and allowances payable to the Chairperson, Members and the Officers and other staff of the Commission. A token amount of rupees one lakh has been provided for in the Budget Estimates for the year 1993-94 of the Ministry of Home Affairs for setting up of the Commission. The expenditure during the initial year of the constitution of the Commission on account of these clauses is estimated to be approximately Rupees two crores which will mainly be of a recurring nature. With the expansion of its activities, the expenditure is likely to increase in subsequent years.

2. The Bill will not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be made, *inter alia*, relate to the salaries and allowances and other terms and conditions of service of the Chairperson and Members, the other administrative, technical and scientific staff appointed by the Commission, Officers and employees made available to the Commission by Government.

The matters in respect of which the rules may be made, are matters of procedure and administrative detail. The delegation of legislative powers is, therefore, of a normal character.

C. K. JAIN,
Secretary-General.

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